

1 after the order is entered or within 14 days after the moving party receives notice of the entry,
2 whichever is earlier; and (3) no party would be prejudiced by the reopening. Fed. R. App. P.
3 4(a)(6).

4 The Court finds Petitioner did not receive notice of the October 12, 2010 order until
5 March 21, 2011.¹ He filed his motion to extend time on March 20, 2011, which was within 14
6 days of receiving notice of the order. Finally, the Court finds that no party would be prejudiced
7 by reopening the time to file an appeal. Therefore, the Court finds it is appropriate to reopen the
8 time to file an appeal.

9 Accordingly, Petitioner's Motion to Extend Time for Filing Notice of Appeal is
10 **GRANTED.**

11 **B. Request for Issuance of COA**

12 A certificate of appealability is authorized "if the applicant has made a substantial
13 showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To meet this standard,
14 Petitioner must show that "jurists of reason could disagree with the district court's resolution of
15 his constitutional claims or that jurists could conclude the issues presented are adequate to
16 deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003);
17 *accord Banks v. Dretke*, 540 U.S. 668, 705 (2004).

18 Having reviewed the matter, the Court finds the Notice of Appeal does not support a
19 certificate of appealability as to Petitioner's claims. Petitioner has not made a substantial
20 showing that he was denied a constitutional right and the Court is not persuaded that jurists
21 could disagree with the Court's resolution of his Constitutional claims or that the issues
22 presented deserve encouragement to proceed further. As detailed in the Court's October 12,
23 2010 order denying § 2255 relief, Petitioner's claims that his Plea Agreement was entered
24 involuntarily and that his trial counsel acted ineffectively are completely contradicted by the
25 record.

26
27 ¹ On March 14, 2011, the Court rejected a letter from Petitioner wherein he attempted to
28 provide supplemental authority for his § 2255 motion. [Doc. No. 32.] Apparently, Petitioner
believed his motion had not yet been decided. The Court therefore also ordered the Clerk to
serve a copy of the October 12, 2010 order on Petitioner. [Doc. No. 32.]

1 Accordingly, Appellant's request for a Certificate of Appealability is **DENIED**.
2 **IT IS SO ORDERED.**
3

4 DATED: April 6, 2011

5 
6 M. James Lorenz
7 United States District Court Judge
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